

The Section 112, second paragraph, rejection of claims 1-14 is moot in view of the above. The claims have been amended with the Examiner's comments in mind and are submitted to be definite.

The Section 102 rejection of claims 1-2 and 5-14 over Guerrero (U.S. Patent No. 5,236,710) is moot in view of the above. The pending claims are submitted to be patentable over Guerrero and the Examiner's consideration of the following in this regard is requested.

The applicants submit that Guerrero et al disclose a clear cosmetic composition containing, in a pharmaceutically acceptable carrier, a combination surfactant system based upon an emulsifying copolymer and an anionic sulfosuccinate.

Even if it can be assumed that the emulsifying copolymer of Guerrero et al is one corresponding to the associative non-crosslinked acrylic copolymer having a C₈-C₃₂ hydrophobic chain according to the claimed invention, this fact is not sufficient to anticipate the pending claims. Contrary to the Examiner's assertion, Guerrero et al do not disclose, as the other important component, the use of a non-ionic surfactant (or surface-active agent) in the same ratio with respect to the associative non-crosslinked copolymer. Guerrero et al disclose that an anionic sulfosuccinate is to be used as a co-surfactant and that, in addition, the composition can contain an amphoteric surfactant.

There is no disclosure or suggestion in Guerrero et al to use a non-ionic surface-active agent.

The claims are submitted therefore to be patentable over Guerrero et al.

The Section 102 rejection of claims 1, 2, 4, 5, 7, 8 and 14 over EP 0507 693 is moot in view of the above. The pending claims are submitted to be patentable over EP 0507 693 and the Examiner's consideration of the following in this regard is requested.

The applicants respectfully submit that EP 0507 693 ('693) discloses a triple emulsion comprising (A) a continuous gelled outer aqueous phase, containing as gelling agent, at least one acrylic or methacrylic acid polymer or copolymer combined with a polyglyceryl methacrylate, (B) a fatty phase dispersed in the outer aqueous phase and an aqueous phase (C) dispersed in the fatty phase.

Therefore '693 does not disclose an aqueous gel wherein a non-ionic surface active agent is used in a proportion of less than 1% by weight with respect to the total weight of the composition.

In the only example to illustrate the triple emulsion, the surfactant (Span 80) is employed in a proportion of 2% (i.e., more than the double required by the presently claimed invention). Furthermore the copolymer sodium acrylate/acrylamide is used at a concentration of 0.25% whereas according to the claimed invention the concentration must be comprised between 0.8 to 20% by weight.

In view of the above, the claims are submitted to be patentable over the '693 publication.

The Section 102 rejection of claims 1-14 over Almaric (U.S. Patent No. 5,670,471) is moot in view of the above. The claims are submitted to be patentable over Almaric and consideration of the following in this regard is requested.

The applicants submit that Almaric et al disclose a concentrate comprising a

mixture of alkylglycosides and at least one fatty alcohol for preparing pearling agent or preparing emulsions.

The concentration of the concentrate in the composition is between 2 and 15% by weight and the composition may also contain surfactants which are amphoteric surfactants, non-ionic surfactants, cationic surfactants and anionic surfactants. At column 4 lines 36 to 39 it is mentioned that the compositions, generally contain by weight from 2 to 15% of said concentrate, from 2 to 50% of at least one surfactant, from 0.5 to 15% of oil and an aqueous phase.


According to the claimed invention the surfactant must be of the non-ionic type only and at a concentration of less than 1% by weight. Almaric et al, which disclose the use of the surfactant in a proportion from 2 to 50% fails to teach each and every aspect of the presently claimed invention such that the claims are submitted to be patentable over the same.

In view of the above, the claims are submitted to be in condition for allowance and a Notice to that effect is requested.

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Respectfully submitted,

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